

§ 984.67

7 CFR Ch. IX (1–1–16 Edition)

§ 984.67 Exemptions.

(a) Exemption from volume regulation. Reserve percentages shall not apply to lots of merchantable inshell walnuts which are of jumbo size or larger as defined in the then effective United States Standards for Walnuts in the Shell, or to such quantities as the Board may, with the approval of the Secretary, prescribe.

(b) *Exemptions from assessments, quality, and volume regulations*—(1) *Sales by growers direct to consumers*. Any walnut grower may handle walnuts of his own production free of the regulatory and assessment provisions of this part if he sells such walnuts in the area of production directly to consumers under the following types of exemptions.

(i) At roadside stands and farmers' markets;

(ii) In quantities not exceeding an aggregate of 500 pounds of inshell walnuts or 200 pounds of shelled walnuts during any marketing year (at locations other than those specified in (b)(i) of this section); and

(iii) If shipped by parcel post or express in quantities not exceeding 10 pounds of inshell walnuts or 4 pounds of shelled walnuts to any one consumer in any one calendar day.

(2) *Green walnuts*. Walnuts which are green and which are so immature that they cannot be used for drying and sale as dried walnuts may be handled without regard to the provisions of this part.

(3) *Noncompetitive outlets*. Any person may handle walnuts, free of the provisions of this part, for use by charitable institutions, relief agencies, governmental agencies for school lunch programs, and diversion to animal feed or oil manufacture pursuant to an authorized governmental diversion program.

(c) *Rules and modifications*. The Board may establish, with the approval of the Secretary, such rules, regulations and safeguards and such modifications as will promote the objectives of this subpart.

[27 FR 9094, Sept. 13, 1962, as amended at 41 FR 31544, July 29, 1976; 73 FR 11339, Mar. 3, 2008]

EXPENSES AND ASSESSMENTS

§ 984.68 Expenses.

The Board is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by it during each marketing year for the maintenance and functioning of the Board, and for such other purposes as the Secretary may, pursuant to this part, determine to be appropriate. The Board shall file a proposed budget of expenses and a rate of assessment with the Secretary as soon as practicable after the beginning of each marketing year.

[41 FR 31544, July 29, 1976]

§ 984.69 Assessments.

(a) *Requirement for payment*. Each handler shall pay the Board, on demand, his pro rata share of the expenses authorized by the Secretary for each marketing year. Each handler's pro rata share shall be the rate of assessment per kernelweight pound of walnuts fixed by the Secretary times the kernelweight of merchantable walnuts he has certified. At any time during or after the marketing year the Secretary may increase the assessment rate as necessary to cover authorized expenses and each handler's pro rata share shall be adjusted accordingly.

(b) *Reserve walnut pool expenses*. The Board is authorized temporary use of funds derived from assessments collected pursuant to paragraph (a) of this section to defray expenses incurred in disposing of reserve walnuts pooled. All such expenses shall be deducted from the proceeds obtained by the Board from the sale or other disposal of pooled reserve walnuts.

(c) *Accounting*. If at the end of a marketing year the assessments collected are in excess of expenses incurred, such excess shall be accounted for in accordance with one of the following:

(1) If such excess is not retained in a reserve, as provided in paragraph (c)(2) or (c)(3) of this section, it shall be refunded to handlers from whom collected and each handler's share of such excess funds shall be the amount of assessments he or she has paid in excess of his or her pro rata share of the actual expenses of the Board.

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(2) Excess funds may be used temporarily by the Board to defray expenses of the subsequent marketing year: Provided, That each handler's share of such excess shall be made available to him or her by the Board within five months after the end of the year.

(3) The Board may carry over such excess into subsequent marketing years as a reserve: Provided, That funds already in reserve do not exceed approximately two years' budgeted expenses. In the event that funds exceed two marketing years' budgeted expenses, future assessments will be reduced to bring the reserves to an amount that is less than or equal to two marketing years' budgeted expenses. Such reserve funds may be used:

(i) To defray expenses, during any marketing year, prior to the time assessment income is sufficient to cover such expenses;

(ii) To cover deficits incurred during any year when assessment income is less than expenses;

(iii) To defray expenses incurred during any period when any or all provisions of this part are suspended;

(iv) To meet any other such costs recommended by the Board and approved by the Secretary.

(d) *Termination.* Any money collected from assessments hereunder and remaining unexpended in the possession of the Board upon termination of this part shall be distributed in such manner as the Secretary may direct.

[27 FR 9094, Sept. 13, 1962, as amended at 41 FR 31544, July 29, 1976; 73 FR 11339, Mar. 3, 2008]

§ 984.70 Contributions.

The Board may accept voluntary contributions but these shall only be used to pay expenses incurred pursuant to § 984.46, Research and development. Furthermore, such contributions shall be free from any encumbrances by the donor and the Board shall retain complete control of their use.

[73 FR 11339, Mar. 3, 2008]

REPORTS, BOOKS, AND OTHER RECORDS

§ 984.71 Reports of handler inventory.

Each handler shall submit to the Board in such form and on such dates

as the Board may prescribe, reports showing his or her inventory of inshell and shelled walnuts.

[73 FR 11339, Mar. 3, 2008]

§ 984.72 Reports of merchantable walnuts handled.

Each handler who handles merchantable walnuts, inshell or shelled, at any time during a marketing year shall submit to the Board in such form and at such intervals as the Board may prescribe, reports showing the quantity so handled and such other information pertinent thereto as the Board may specify.

§ 984.73 Reports of walnut receipts.

Each handler shall file such reports of his or her walnut receipts from growers, handlers, or others in such form and at such times as may be requested by the Board with the approval of the Secretary.

[73 FR 11339, Mar. 3, 2008]

§ 984.76 Other reports.

Upon request of the Board made with the approval of the Secretary each handler shall furnish such other reports and information as are needed to enable the Board to perform its duties and exercise its powers under this subpart.

§ 984.77 Verification of reports.

For the purpose of verifying and checking reports filed by handlers or the operations of handlers, the Secretary and the Board through its duly authorized representatives shall have access to any premises where walnuts and walnut records are held. Such access shall be available at any time during reasonable business hours. Authorized representatives shall be permitted to inspect any walnuts held and any and all records of the handler with respect to matters within the purview of this part. Each handler shall maintain complete records on the receiving, holding, and disposition of both inshell and shelled walnuts. Each handler shall furnish all labor necessary to facilitate such inspections at no expense to the Board or the Secretary. Each handler shall store all walnuts held by him in such manner as to facilitate inspection